



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Kenneth T. Cuccinelli II
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory and Manual Section Manager
Department of Medical Assistance Services

FROM: ELIZABETH A. MCDONALD
Special Counsel to DMAS

DATE: November 8, 2010

SUBJECT: Final Exempt Regulation – Deeming Newborns of FAMS and FAMIS Moms

I have reviewed the above final exempt regulation that will move the existing regulation from Chapter 30 to Chapter 110. You have asked the Office of the Attorney General to review and determine if DMAS has the legal authority to promulgate the final exempt regulation and if it comports with state and federal law.

Based on that review, it is this Office's view that DMAS has the authority, pursuant to Virginia Code § 32.1-351(K), to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act (APA), and has not exceeded that authority.

It is my view that the promulgation of this regulation is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Virginia Code § 2.2-4006(A)(3).

If you have any questions, please feel free to contact me at 786-7363.

cc: Kim F. Piner
Senior Assistant Attorney General